

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

JUDITH METCALF SCOTT,

Plaintiff,

v.

CRAIG CALDWELL, et al

Defendants.

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CIVIL ACTION NO. 6:07-cv-450

**ORDER ADOPTING REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

The above entitled and numbered civil action was referred to United States Magistrate Judge John D. Love pursuant to 28 U.S.C. § 636. The Report and Recommendation of the Magistrate Judge (Doc. No. 50), which contains his proposed findings of fact and recommendations for the disposition of Defendant Texas Department of Public Safety's (DPS) Second Motion to Dismiss or in the Alternative Motion for Summary Judgment (Doc. No. 38), and Defendants Caldwell, Phifer, Campbell and Childs' Second Motions to Dismiss Pursuant to Rule 12 (Doc. No. 40), has been presented for consideration. Plaintiff objected to the Report and Recommendation. Having considered Plaintiff's objections, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct. Therefore, the Court hereby adopts the Report and Recommendation of the United States Magistrate Judge as the findings and conclusions of this Court.¹

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Defendant Fulton objected to the Report and Recommendation, apparently on the grounds that the conclusion of the Report did not mention Fulton by name as being dismissed. The Report and Recommendation analyzed Defendant Fulton's entitlement to qualified immunity, and very clearly recommended granting both motions before the Court in their entirety, including dismissing Plaintiff's claims against Fulton on qualified immunity grounds. The conclusion of the Report and Recommendation did not mention Fulton by name because the motion addressing Fulton did not contain his name in the title, while the separate motion addressing the other Defendants did contain their names, and thus they were named in the conclusion when the Court was explaining the motions that were granted. To the extent there is actually any issue as to Fulton's status in the case, Defendant's objection is **SUSTAINED** (Doc. No. 51), and the Court notes

Accordingly, it is **ORDERED** that Defendants' motions are **GRANTED** (Doc. Nos. 38, 40), and Plaintiff's case is **DISMISSED WITH PREJUDICE**.

So ORDERED and SIGNED this 4th day of June, 2008.

A handwritten signature in black ink, appearing to read 'Leonard Davis', written over a horizontal line.

LEONARD DAVIS
UNITED STATES DISTRICT JUDGE

that Plaintiff's claims against Defendant Fulton and all other Defendants are hereby dismissed.